

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

ANTHONY GABRY,

Plaintiff,

v.

**HOMESITE INSURANCE COMPANY
OF THE MIDWEST,**

Defendant.

Case No. 3:24-cv-00695-YY

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Anthony Gabry, 13702 Regency Ct., Lake Oswego, OR 97035. Pro Se Plaintiff.

Joshua N. Kastan, DKM Law Group, LLP, 1050 SW 6th Ave., Ste. 1100, Portland, OR 97204.
Attorney for Defendant.

IMMERGUT, District Judge.

Defendant Homesite Insurance Company of the Midwest moves to dismiss Plaintiff Anthony Gabry's Complaint. ECF 5. Plaintiff failed to respond to Defendant's Motion. ECF 9. Magistrate Judge Youlee Yim You issued her Findings and Recommendations ("F&R"), ECF 11, recommending that Defendant's Motion be granted, but that this action be dismissed without prejudice and Plaintiff be granted leave to file an amended complaint. Objections to Judge You's F&R were due June 25, 2024, and neither Plaintiff nor Defendant has filed objections. This

Court has reviewed the F&R and ADOPTS it in full. Defendant's Motion to Dismiss, ECF 5, is GRANTED, and this action is DISMISSED without prejudice. Plaintiff is granted leave to file an amended complaint.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R that are not objected to. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, *sua sponte*" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

Neither party has filed objections. This Court has reviewed Judge You's F&R, ECF 11, and adopts it in full. Defendant's Motion to Dismiss, ECF 5, is GRANTED, and this action is DISMISSED without prejudice. Plaintiff is granted leave to file an amended complaint. If Plaintiff chooses to file an amended complaint, he must do so by July 26, 2024.

IT IS SO ORDERED.

DATED this 26th day of June, 2024.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge